

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2717 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHILABEN R PATEL

Versus

STATE OF GUJARAT

Appearance:

MR VASANT S SHAH for Petitioners
MR U.A. TRIVEDI, ASSTT. GOVERNMENT PLEADER
for Respondent No. 1 to 3
MR BG JANI for Respondent No. 4

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 01/09/97

ORAL JUDGEMENT

Leave to amend.

Rule. The learned Assistant Government appearing for the respondents Nos. 1, 2 and 3 waives service of rule in respect of those respondents. The learned

Counsel appearing for respondent Nos. 4 waives service of notice of the rule for that respondent. The learned Counsel appearing for the petitioners seek permission to delete respondents Nos. 5 and 6 which is granted. Both the sides request for taking up this matter for final disposal.

The grievance of the petitioners is that they are removed from membership of the respondent No.4 society without being heard by the appellate authority. It appears that initially the Society passed a resolution for removing these petitioners and that resolution was sent for approval of the District Registrar. The District Registrar did not approve that proposal and set aside the resolution of the society, against which order an appeal was filed by the Society under Section 153 of the Gujarat Co-operative Societies Act, 1961. In that appeal the petitioners were not impleaded as party respondents. The appellate authority however, entertained the appeal and approved the expulsion of the petitioners under Section 36 of the Act from the membership of the Society.

It is clear from the record that the petitioners were not given any hearing before making of the impugned appellate order. The impugned order which had the effect of expulsion of the petitioners from the membership of the society could not have been passed without hearing the petitioners since the petitioners were vitally concerned with the outcome of the appeal. The impugned order is therefore, on the face of it, violative of the principles of natural justice and cannot be sustained. It is therefore, set aside and the matter is remanded to the appellate authority for a fresh decision to be taken after hearing the petitioners and other legally interested parties expeditiously, preferably within six weeks from the date of the receipt of this order. Rule is made absolute accordingly with no order as to costs.
